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BAKER BOTTS L.L.P.			VAN DOREN, BETH	
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DALLAS, TX 75201			PAPER NUMBER	
			3623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/876,477

Applicant(s)

HANEY, RALPH C.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Final Office action in response to communications received 10/28/05. Claims 1, 11, 21, 31, 39, 47, 55, 56 have been amended. Claims 1-56 are pending in this application.

Response to Arguments

2. Applicant's arguments, see page 15, with respect to 35 USC § 103 rejections of claims 11-30, 39-54, and 56 have been fully considered and are persuasive. The rejections of claims 11-30, 39-54, and 56 have been withdrawn.

3. Applicant's arguments with regards to Dietz et al. (U.S. 6,408,337) have been fully considered but they are not persuasive. In the remarks, Applicant argues that Dietz et al. does not teach or suggest (1) both receiving a contract labor request and generating a message containing information in the contract labor request for at least one of the vendors, (2) receiving a list of vendors associated with the contract labor request and associating the list with the associated request, (3) storing the contract labor request and the associated list of vendors in the memory, (4) receiving an inquiry regarding contract labor request from one of the vendors and in response to the received inquiry, generating a message containing information in the contract labor request, (5) generating a second message containing information from the compensation request and requesting an invoice from a vendor associated with a purchase order, and that (6) there is no motivation to combine the references in the 35 USC § 103 rejections and (7) the 35 USC § 103 rejections are based on improper hindsight.

In response to argument (1), Examiner respectfully disagrees. The engaging manager interacts with the system to submit a request for a non-employee (i.e. contract) worker obtained

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from a vendor. The information input includes job category, job description, etc. The information of the labor request input by the engaging manager is sent to the vendor in an email message. See column 5, lines 25-45 and 50-60, column 6, lines 5-20, column 8, line 50-column 9, line 5. Therefore a system receives a contract labor request (i.e. the data input by the engaging manger) and generates a message containing this data in the contract labor request for at least one of the vendors.

In response to argument (2), Examiner respectfully disagrees. The engaging manager selects a vendor or vendors from who the manager would like to receive a non-employee worker. This information is received by the system and is used to direct the generated email messages. See column 5, lines 25-45 and 50-60, column 6, lines 5-20, column 8, line 50-column 9, line 5. See specifically column 5, lines 50-60, which discuss the sending of the request to multiple or preferred vendors. See also figure 4A and column 8, lines 30-57.

As to arguments (3), (4), and (5), these arguments address limitations that were added in the current amendments to the claims and therefore are addressed below.

In response to argument (6) that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Dietz et al. does disclose determining a labor rate based on data regarding similar labor (See column 6, lines 10-35, column 8, lines 50-67, and column 9, line 50-column 10, line

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5). Since it is well known (i.e. in the knowledge generally available to one of ordinary skill in the art) that geographic regions have associated cost of living statistics that are a factor in wage requirements, Examiner maintains that it would have been obvious to one of ordinary skill in the art at the time of the invention to have the normal pay rate of Dietz et al. correlate with a pay rate of a specific region.

In response to argument (7) that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 21-23 and 26-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Dietz et al. (U.S. 6,408,337).

5. As per claim 21, Dietz et al. teaches a set of logic encoded in a computer readable medium, the set of logic operable to:

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receive a contract labor request (See column 2, lines 30-55, column 5, lines 25-45 and 50-60, column 6, lines 5-20, column 8, line 50-column 9, line 5, wherein a labor request is indicated in the system);

receive a list of vendors associated with the contract labor request (See column 2, lines 30-55, column 5, lines 25-45 and 50-60, column 6, lines 5-20, column 8, line 50-column 9, line 5, wherein the processor is used to receive a labor request and a vendor or vendors for the request, and the request is sent to the vendor/vendors via an email);

associate the list with the contract labor request (See column 5, lines 25-45 and 50-60, column 6, lines 5-20, column 8, line 50-column 9, line 5, wherein multiple vendors are identified by the system for the request);

generate a message for the associated vendors regarding the contract labor request (See column 2, lines 30-55, column 5, lines 25-45 and 50-60, column 6, lines 5-20, column 8, line 50-column 9, line 5, wherein the request is sent to the vendors via email);

receive an inquiry regarding the contract labor request from one of the vendors (See column 2, lines 30-55, column 5, lines 25-45 and 50-60, wherein at least one of the multiple vendors sends a list of non-employee workers, inquiring which workers the manager would like to employ); and

in response to the received inquiry, generate a message containing information in the contract labor request (See column 2, lines 30-55, column 5, lines 25-45 and 50-60, wherein, in response to the inquiry from the vendor, the manager selects employees and emails the vendor).

6. As per claim 22, Dietz et al. discloses wherein the contract labor request includes an indication of the skills applicable to the requested labor and an indication of the size of the

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project (See figure 3, column 8, lines 5-20 and line 50-column 9, line 5, wherein job skills and a project description are defined in the request).

7. As per claim 23, Dietz et al. teaches wherein the logic is further operable to determine an estimate of the cost for the contract labor request, generate a message requesting approval of the contract labor request, and receive approval (See figure 3, column 2, lines 57-67, column 5, lines 35-45, column 6, lines 10-32, wherein an estimate of cost is created and a message requesting approval is generated and sent to a work approver, such as a supervisor, for approval).

8. As per claim 26, Dietz et al. discloses wherein the logic is further operable to:
receive resume information regarding candidates from at least one of the associated vendors (See column 2, lines 17-42, column 8, line 50-column 9, line 25 and lines 50-65, wherein resume information regarding candidates is received); and

generate a message containing at least part of the resume information (See column 2, lines 30-45 and 57-67, column 5, lines 30-45, column 8, line 50-column 9, line 5, wherein a message containing part of the resume information, such as qualification, is generated).

9. As per claim 27, Dietz et al. discloses wherein the logic is further operable to:
receive verification that some of the resumes have been rejected (See column 10, lines 25-35, wherein some of the candidates with the resumes are rejected); and

generate a message identifying the rejected resumes (See column 10, lines 25-35, wherein a message indicating a rejection and a reason for the disapproval is generated).

10. As per claim 28, Dietz et al. discloses wherein the logic is further operable to:

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receive information indicating that a candidate has been selected for hire (See column 2, lines 30-45, column 5, lines 34-45, column 9, lines 1-5, wherein the engaging manager indicates the non-employee worker(s) wanted for the position. See column 9, line 50-column 10, line 5);

generate a message containing a purchase order for the services of the selected candidate (See column 2, lines 57-67, column 5, lines 35-45, column 6, lines 10-32, wherein a purchase order for money to pay for the services of the temporary worker is contained in a message sent to an approver. The purchase order is tied to a work assignment).

11. As per claim 29, Dietz et al. discloses wherein the logic is further operable to:

receive a compensation request (See column 3, lines 1-11, column 7, lines 15-25 and 40-50, column 11, lines 10-30, wherein the system receives the compensation request of entered time on a time sheet);

generate a message containing information from the compensation request (See column 3, lines 1-11, column 7, lines 15-25 and 40-50, column 11, lines 10-30, wherein a note is made in the system concerning the compensation report, such as a message sent to a time approver);

receive a message indicating that the compensation request is approved (See column 3, lines 1-11, column 7, lines 40-65, column 11, lines 15-40, wherein an indication occurs indicating approval. See also column 8, lines 5-25, which discusses reimbursement and other approvals); and

generate a second message containing information from the compensation request (See column 3, lines 1-11, column 7, lines 40-65, column 11, lines 15-40).

12. As per claim 30, Dietz et al. discloses wherein the processor is further operable to:

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receive an invoice (See column 2, lines 57-67, column 5, lines 35-45, column 6, lines 10-32, wherein a statement of rates and money is received);

associate the invoice with a purchase order (See column 2, lines 57-67, column 5, lines 35-45, column 6, lines 10-32, wherein a purchase order for money to pay for the services of the temporary worker is contained in a message sent to an approver. The purchase order is tied to a work assignment);

determine whether the invoice is associated with an approved compensation request (See column 3, lines 1-11, column 7, lines 40-65, column 11, lines 15-40, wherein approval is associated with the request for compensation); and

generate a message regarding payment of the invoice if it is associated with an approved compensation request (See column 3, lines 1-11, column 7, lines 40-65, column 11, lines 15-40, wherein a message regarding payment is generated associated with the approved request).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-14, 16-20, 24, and 31-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz et al. (U.S. 6,408,337).

14. As per claim 1, Dietz et al. teaches a system for managing contract labor activities, comprising: a communication interface adapted to be coupled to a communication network, the

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communication interface operable to receive information from and send information to the communication network (See figure 3, column 2, lines 5-30, column 3, lines 40-55, and column 4, line 53-column 5, line 5 and lines 25-45, which discuss communication means);

a memory coupled to the communication interface, the memory operable to store information received through the communication interface (See figure 1, column 2, lines 5-30, column 3, lines 40-55, column 4, lines 1-10 and 35-52, which discusses memory); and

a processor coupled to the memory, the processor operable to receive a contract labor request, receive a list of vendors associated with the contract labor request, associate the list with the contract labor request, storing the contract labor request and the associated list of vendors in memory, and generate a message containing information in the contract labor request for at least one of the vendors (See figure 1, column 2, lines 5-30, column 4, lines 1-10, which discusses the processing unit. See column 2, lines 30-55, column 5, lines 25-45 and 50-60, column 6, lines 5-20, column 8, line 50-column 9, line 5, wherein the processor is used to receive a labor request and a vendor or vendors for the request, and the request is sent to the vendor/vendors via an email. See abstract, figures 1, 3, and 4A, column 1, lines 55-67, column 3, lines 40-55, column 6, lines 40-50, column 8, lines 30-65, wherein the labor request and communications with the vendor (i.e. agreements, etc.) are stored in the database of the system and wherein an account for a vendor is known and the manager selects a vendor from a list of vendors).

However, while Dietz et al. discloses a database management system that maintains data needed for requesting a non-employee and selecting a vendor from a list of vendors, Dietz et al. does not expressly disclose storing the associated list of vendors in memory.

Dietz et al. discloses a system for requesting non-employee workers, the computer system including a database management system that stores worker data and worker requests. Dietz et al. further discloses maintaining vendor accounts and agreements, selecting a vendor from a list of vendors, and updating and creating vendor accounts. It would have been obvious to one of ordinary skill in the art at the time of the invention to storing the associated list of vendors in memory in order to increase the efficiency and accuracy of the system using automation, thus reducing management difficulties of keeping track of a large number of details. See column 1, lines 35-50 and 57-67.

15. Claims 2-3 and 6-10 recite substantially similar limitations to claims 22-23 and 26-30, respectively, and are therefore rejected using the same art and rationale as set forth above.

16. As per claim 4, Dietz et al. discloses wherein determining an estimate of the cost for the contract labor request comprises determining a labor rate based on data regarding similar labor (See column 6, lines 10-35, column 8, lines 50-67, and column 9, line 50-column 10, line 5, wherein the estimate includes a normal labor rate). However, Dietz et al. does not expressly disclose that this utilized normal labor rate is based on the geographic region where the labor is to be performed.

It is old and well known that geographic regions have associated cost of living statistics that are a factor in wage requirements. It is also old and well known that there is an established minimum wage. Dietz et al. discusses using normal labor rates for workers when defining a work assignment. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the normal pay rate of Dietz et al. correlate with a pay rate of a specific region

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in order to increase the flexibility of the system, allowing the system to be used throughout a range of geographic areas.

17. Claims 11, 12-13, 14, 16-20, and 24 recite substantially similar limitations to claims 1, 22-23, 4, 26-30, and 4, respectively, and are therefore rejected using the same art and rationale as set forth above.

18. As per claim 31, Dietz et al. discloses a system for managing contract labor activities, comprising: a communication interface adapted to be coupled to a communication network, the communication interface operable to receive information from and send information to the communication network (See figure 3, column 2, lines 5-30, column 3, lines 40-55, and column 4, line 53-column 5, line 5 and lines 25-45, which discuss communication means);

a memory coupled to the communication interface, the memory operable to store information received through the communication interface, the memory further operable to store purchase orders for contract labor requests (See figure 1, column 2, lines 5-30, column 3, lines 40-55, column 4, lines 1-10 and 35-52, which discusses memory); and

a processor coupled to the memory, the processor operable to receive a compensation request, associate the compensation request with a purchase order, generate a message containing information from the compensation request, receive a message indicating that the compensation request is approved, generate a second message containing information from the compensation request, and sending the second message to the vendor (See column 3, lines 1-11, column 7, lines 15-25 and 40-65, column 11, lines 10-30, wherein the system receives the compensation request with a message in the system concerning the compensation report, such as a message sent to a time approver. See also column 8, lines 5-25, which discusses reimbursement and other

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compensation approvals. See also column 7, lines 40-65 and column 11, lines 15-40, wherein an indication occurs indicating approval, wherein a message is sent to the vendor summarizing the time approved for the workers).

However, Dietz et al. does not expressly disclose requesting an invoice from a vendor associated with the purchase order, and then sending the second message to the vendor

Dietz et al. discloses a system wherein the vendor is compensated for worked time and expenses of a non-employee worker managed by the vendor. It is then up to the vendor to dispute compensation discrepancies. See column 7, lines 60-67. Further, Dietz et al. discloses that in common practice the vendor would pay the non-employee worker for expenses (travel, etc.) and then collect reimbursement from the organization employing the worker. See column 8, lines 11-25. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to elicit an invoice and confirm payment amounts before messaging and paying the vendor in order to reduce error by ensuring that the amount to be paid is correct up front. See column 7, line 55-column 8, line 20.

19. As per claim 32, Dietz et al. discloses wherein the compensation request is a time sheet (See column 3, lines 1-11, column 7, lines 15-25 and 40-50, column 11, lines 10-30, wherein the request is a time sheet).

17. Claims 33, 34, 35, 36, 38, and 39 recite substantially similar limitations to claims 30, 23, 24, 1, 28, and 31, respectively, and are therefore rejected using the same art and rationale as set forth above.

20. As per claim 37, claim 37 recites substantially similar limitations to claims 26 and 27, and is therefore rejected using the same art and rationale as set forth above.

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21. Claims 40-46, 47, and 48-54 recite substantially similar limitations to claims 32-38, 31, and 40-46, respectively, and are therefore rejected using the same art and rationale as set forth above.

22. As per claims 55 and 56, claims 55 and 56 recite equivalent limitations to claims 1, 6, 8, and 31, combined, and therefore are rejected using the same art and rationale applied above.

23. Claims 5, 15, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz et al. (U.S. 6,408,337) in view of Arrowood (U.S. 2002/0010614).

24. As per claims 5, 15, and 25, Dietz et al. teaches wherein receiving a contract labor request includes the anticipated amount of hours to be worked and the period of employment (See column 6, lines 5-31, wherein the labor request includes the anticipated amount of hours and the period of employment). Dietz et al. also discloses budgetary concerns (see at least column 6, lines 25-40). However, Dietz et al. does not expressly disclose comparing the anticipated amount of hours to be worked against the period of employment to determine if overtime is required.

Arrowood discloses comparing amount of hours worked against a period of employment to determine overtime of a temporary worker (See paragraphs 0017, 0059, 0082, 0085, 0093-5, and 0151, which disclose a temporary worker and a comparison display of hours worked, overtime, etc.).

Both Arrowood and Dietz et al. disclose a computer-implemented system for staffing employees, including the use of temporary or non-employee workers. Dietz et al. discloses budgetary concerns and that a contract labor request includes the anticipated amount of hours to

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be worked and the period of employment. Dietz et al. further discloses paying over the normal pay rate as well as paying for a project rather than hourly. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include an overtime determination when considering a contract request in order to increase the efficiency of meeting budgetary constraints by identifying all factors that will lead to accounting dilemmas and cash flow problems. See column 1, lines 40-53.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737. The examiner can normally be reached on M-F, 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bvd

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January 11, 2006

Susanna Diaz
SUSANNA M. DIAZ
PRIMARY EXAMINER

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